CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/00828/2019

Bilaspur, this Tuesday, the 17th day of September, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. Pintu Kumar, S/o Shri Mahendra Prasad, Aged about 30 Yrs, Unemployed, R/o: Vill-Khedan Bigha, KPO-Murgown, PS-Islampur, Dist: Nalanda (Bihar) 801303.

2. Ashish Ranjan Khan S/o Shri Jai Prakash Khan, Aged about 30 Yrs, Unemployed, R/o Vill & PO: Bangaon, South Tola (Bishari Sthan) South Tola (Bihar)852212.

3. Niranjan Kumar S/o Shri Dilip Kumar, Aged about 32 Yrs, Unemployed, R/o Vill: Nagar Nausa, Dist.Nalanda (Bihar)801305

4. Rahul Ramesh Gharde, S/o Shri Ramesh Shankar Gharde, Aged about 33 Yrs, Unemployed, R/o Vill:HIWARA-BENDE, PO: Kandri Mine (Ta)-Ramtek,
Dist.Nagpur (MS)441401 **-Applicants**

(By Advocate –Shri B.P.Rao)

V e r s u s

1. Union of India, Through: The General Manager, S.E.C.Railway, Bilaspur Zone, Headquarters' Office, Bilaspur-495004 (CG)

2. The Chief Personnel Officer, S.E.C. Railway, Bilaspur Zone, Headquarters Bilaspur-495004

3. The Chairman, Railway Recruitment Board, GM Office, S.E.C. Railway, Head Quarters
Bilaspur-495004 **- Respondents**

(By Advocate –Shri Vivek Verma)

O R D E R

By Navin Tandon, AM:-

The applicants are aggrieved by their non-appointment consequent to their empanelment in terms of Employment Notice 04/2010 as Commercial Clerk/Ticket Collector/Ticket Examiner. In lieu thereof, in this Original Application they have now prayed for a direction to the respondents to consider their appointment against the vacancies notified in 2019.

2. The applicants have submitted as under:-

2.1 Respondent-RRB issued a Centralised Employment Notice 04/2010 for filling 256 vacancies of Commercial Clerk/Ticket Collector/Ticket Examiner. Against which the applicants had applied and participated in two stages of written examinations, which were held in between 01.09.2013 and 19.01.2014. They were called for document verification which was held on 20.03.2014, 21.03.2014 and 24.03.2014. A list of 206 standby candidates, including the applicants, was issued vide letter dated 12.05.2014 (Annexure A-14). From the said list 71 candidates were appointed. Thereafter the respondents issued another 'Standby list' of 135 candidates (Annexure A-15). In response to a representation dated 12.07.2018 submitted by applicant Niranjan Kumar, he was intimated by the respondent- RRB vide letter dated

23.08.2018 (Annexure A-16) that his name is figuring in the list of standby candidates. He was further intimated that allotment of candidates from the Railway Recruitment Board is done only after a demand is made by the concerned Railway. However, instead of issuing appointment orders in favour of the present applicants, the respondents have now issued Centralised Employment Notice No.CEN/1/2019 for filling up 4940 vacancies which include backlog vacancies as well.

2.2 In support of their claim the applicants have relied on the following decisions:

(i) R.S.Mittal Vs. **Union of India**,1995 Supp(2) SCC 230: 1995 SCC(L&S) 787 wherein their lordships have held that there has to be justifiable reason to decline to appoint a person who is on the select panel.

(ii) A.P.Aggrawal Vs. **Govt. of NCT of Delhi**, (2000) 1 SCC 600 wherein their lordships have held that it is not open for the Government to ignore the panel which was already approved and accepted by it and resort to a fresh selection process without giving any proper reason for resorting to the same.

(iii) **Dir.S.C.T.I for Med.Sci. and Tech. and another** Vs. **M.Pushkaran,** (2008) 1 SCC 448 wherein their lordships have

taken into consideration aforementioned decisions in the matters of **R.S.Mittal** (supra) and **A.P.Aggrawal** (supra).

(iv) State of Rajasthan Vs. **Jagdish Chopra,** (2007) 8 SCC 161 wherein it has been held that recruiting agency should prepare waiting list only to the extent of anticipated vacancies.

3. The applicants have prayed for the following reliefs:

> *"**(8.1)** That the Hon'ble Tribunal be pleased to allow the O.A. and by calling entire relevant records from the possession of Respondents for its kind perusal to decide the Applicant's grievance.*
> ***(8.2)** That the Hon'ble Tribunal be pleased to pass an Order, directing the Respondents to consider the Appointment of Applicants against the vacant posts of Commercial Clerk cum Ticket Clerk. as per Employment Notification No.CEN 01/2019 in the interest of justice".*

4. Heard the learned counsel for the applicants on admission.

5. On perusal of pleadings, we find that in response to the Centralised Employment Notice 04/2010 for filling of vacancies of Commercial Clerk/Ticket Collector/Ticket Examiner, the result was issued vide Annexures A-14 wherein 206 candidates, which include the applicants are listed in the Combined Provisional Standy list in order of merit for the post of Commercial Clerk and Ticket Collector, CAT No.01 and 03. The applicants have stated that about 71 candidates of aforesaid standby list got appointment and as such the respondents issued a list of 135 remaining

candidates on provisional standby list which includes the roll numbers of all the applicants. However, they have failed to point out any arbitrariness in the said selection. They have not pointed out as to how their claim is sustainable at this stage.

6. The applicants cannot claim appointment against the vacancies now notified in the year 2019 merely on the ground that their names were placed in the provisional standby list consequent to Employment Notice 04/2010. It is emphasized that they have not been placed in the select panel.

7. As regards the reliance placed by the learned counsel for the applicant` on various decisions referred to in para 2.2 above we find that –

(i) In the matters of **R.S.Mittal** (supra) the issue involved was of appointment of Judicial Member in Income Tax Appellate Tribunal. Wherein their lordships have held that when a person has been selected by the Selection Board and there is a vacancy which can be offered to him keeping in view his merit position, then ordinarily there is no justification to ignore him for appointment. However, in the present case, we find that the applicants could not be appointed as they were in provisional standby list and were not empanelled.

(ii) In the matters of **A.P.Aggarwal** (supra) the issue was of appointment of Member Sales Tax Appellate Tribunal. In the said matter their lordships found that when all the conditions set out by the Central Government were fulfilled, the rejection of appellant's name without any reason was arbitrary and unconstitutional and that initiation of fresh process of selection was not valid. In the instant case, the applicants were kept in the provisional Standby list. Therefore there was no arbitrariness on the part of the respondents in not appointing the applicants only because of non-availability of vacancies.

(iii) In the matters of **M.Pushkaran** (supra) the issue involved was of appointment to the post of security guard. There were three permanent posts. The select list contained names of five candidates. The name of the respondent appeared at Sr.No.4. The third candidate declined the appointment. Their lordships have held that there was no reason not to offer any appointment in his favour. These are not the facts here. In the instant case the applicants are not in the select panel and only in provisional standby list.

(iv) In the matters of **Jagdish Chopra** (supra) their lordships have held that the learned Single Judge of the High Court was correct in holding that the second respondent had no legal right to be appointed and furthermore the Division Bench was not at all

justified in directing grant of service benefits to the respondents. Since the State had appointed the respondent during the pendency of the SLP, the order of appointment was not set aside.

(v) Thus, having gone through the aforementioned decisions we are of the considered view that all these four decisions are not applicable in the present case.

8. Accordingly, we do not find any merit in this Original Application and the same is dismissed in limine.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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